

103D CONGRESS  
1ST SESSION

# H. R. 1027

To the Internal Revenue Code of 1986 to provide an incremental investment tax credit to assist defense contractors in converting to nondefense operations.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 22, 1993

Ms. WATERS introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To the Internal Revenue Code of 1986 to provide an incremental investment tax credit to assist defense contractors in converting to nondefense operations.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CONVERSION INVESTMENT CREDIT FOR DE-**  
4 **FENSE CONTRACTORS.**

5 (a) ALLOWANCE OF CREDIT.—Section 46 of the In-  
6 ternal Revenue Code of 1986 (relating to amount of in-  
7 vestment credit) is amended by striking “and” at the end  
8 of paragraph (2), by striking the period at the end of para-  
9 graph (3) and inserting “, and”, and by adding at the  
10 end thereof the following new paragraph:

1 “(4) in the case of a defense contractor (as de-  
2 fined in section 48(c)), the defense contractor con-  
3 version credit.”

4 (b) AMOUNT OF CREDIT.—Section 48 of such Code  
5 is amended by adding at the end thereof the following new  
6 subsection:

7 “(c) DEFENSE CONTRACTOR CONVERSION CRED-  
8 IT.—

9 “(1) IN GENERAL.—For purposes of section 46,  
10 in the case of a defense contractor, the defense con-  
11 tractor conversion credit for any taxable year is an  
12 amount equal to 15 percent of the sum of—

13 “(A) the incremental nondefense qualified  
14 investment for such taxable year, plus

15 “(B) the qualified nondefense product ex-  
16 penses paid or incurred by the taxpayer during  
17 the taxable year.

18 “(2) DEFENSE CONTRACTOR.—For purposes of  
19 this subsection, the term ‘defense contractor’ means  
20 any taxpayer if more than 10 percent of its gross re-  
21 cepts for the taxable year is derived from defense  
22 contracts.

23 “(3) INCREMENTAL NONDEFENSE QUALIFIED  
24 INVESTMENT.—For purposes of paragraph (1), the

1 incremental nondefense qualified investment for any  
2 taxable year is the excess (if any) of—

3 “(A) the net nondefense qualified invest-  
4 ment for such taxable year, over

5 “(B) the average of the net nondefense  
6 qualified investment for the preceding 3 taxable  
7 years.

8 “(4) NET NONDEFENSE QUALIFIED INVEST-  
9 MENT.—For purposes of paragraph (3), the net  
10 nondefense qualified investment for any taxable year  
11 is the excess (if any) of—

12 “(A) the qualified investment in  
13 nondefense section 38 property placed in service  
14 during such taxable year, over

15 “(B) the aggregate fair market value of  
16 nondefense section 38 property which is dis-  
17 posed of, or otherwise ceases to be such prop-  
18 erty, during such taxable year.

19 “(5) QUALIFIED INVESTMENT.—

20 “(A) IN GENERAL.—For purposes of this  
21 subsection, the qualified investment for any tax-  
22 able year is the aggregate of—

23 “(i) the applicable percentage of the  
24 basis of each new nondefense section 38

1 property placed in service by the taxpayer  
2 during such taxable year, plus

3 “(ii) the applicable percentage of the  
4 cost of each used nondefense section 38  
5 property placed in service by the taxpayer  
6 during such taxable year.

7 “(B) APPLICABLE PERCENTAGE.—For  
8 purposes of subparagraph (A), the applicable  
9 percentage for any property shall be determined  
10 under paragraphs (2) and (7) of section 46(c)  
11 (as in effect on the day before the date of the  
12 enactment of the Revenue Reconciliation Act of  
13 1990).

14 “(C) CERTAIN RULES MADE APPLICA-  
15 BLE.—The provisions of subsections (b) and (c)  
16 of section 48 (as in effect on the day before the  
17 date of the enactment of the Revenue Reconcili-  
18 ation Act of 1990) shall apply for purposes of  
19 this paragraph.

20 “(6) NONDEFENSE SECTION 38 PROPERTY.—

21 “(A) IN GENERAL.—For purposes of this  
22 subsection, the term ‘nondefense section 38  
23 property’ means section 38 property to be used  
24 other than in operations related to any defense  
25 contract.

1           “(B) DEFENSE CONTRACT.—The term ‘de-  
2           fense contract’ means any contract or sub-  
3           contract entered into (whether or not by the  
4           taxpayer) with a defense agency of the United  
5           States to provide material or defense-related  
6           operations.

7           “(7) SECTION 38 PROPERTY.—For purposes of  
8           this subsection, the term ‘section 38 property’  
9           means—

10           “(A) tangible personal property (other  
11           than an air conditioning or heating unit), or

12           “(B) other tangible property (not including  
13           a building and its structural components) but  
14           only if such property—

15           “(i) is used as an integral part of  
16           manufacturing, production, or extraction  
17           or of furnishing transportation, commu-  
18           nications, electrical energy, gas, water, or  
19           sewage disposal services, or

20           “(ii) constitutes a research facility  
21           used in connection with any of the activi-  
22           ties referred to in clause (i), or

23           “(iii) constitutes a facility used in  
24           connection with any of the activities re-  
25           ferred to in clause (i) for the bulk storage

1 of fungible commodities (including com-  
2 modities in a liquid or gaseous state), or

3 “(C) elevators and escalators, but only if—

4 “(i) the construction, reconstruction,  
5 or erection of the elevator or escalator is  
6 completed by the taxpayer, or

7 “(ii) the original use of such elevator  
8 or escalator commences with the taxpayer,  
9 or

10 “(D) single purpose agricultural or horti-  
11 cultural structures; or

12 “(E) a storage facility (not including a  
13 building and its structural components) used in  
14 connection with the distribution of petroleum or  
15 any primary product of petroleum.

16 Such term includes only property to which section  
17 168 applies without regard to any useful life and  
18 any other property with respect to which deprecia-  
19 tion (or amortization in lieu of depreciation) is al-  
20 lowable and having a useful life (determined as of  
21 the time such property is placed in service) of 3  
22 years or more.

23 “(8) QUALIFIED NONDEFENSE PRODUCT EX-  
24 PENSES.—For purposes of this subsection, the term  
25 ‘qualified nondefense product expenses’ means the

1 following expenses to the extent incurred in connec-  
2 tion with any product or service not related to any  
3 defense contract: expenses for research, design, com-  
4 mercial cost, quality control, and marketing. Such  
5 term shall not include any expense attributable to a  
6 product produced or service provided before the date  
7 of the enactment of this subsection.

8 “(9) COORDINATION WITH OTHER CREDITS.—  
9 This subsection shall not apply to any property to  
10 which the energy credit or rehabilitation credit  
11 would apply unless the taxpayer elects to waive the  
12 application of such credits to such property.

13 “(10) CERTAIN PROGRESS EXPENDITURE  
14 RULES MADE APPLICABLE.—Rules similar to rules  
15 of subsection (c)(4) and (d) of section 46 (as in ef-  
16 fect on the day before the date of the enactment of  
17 the Revenue Reconciliation Act of 1990) shall apply  
18 for purposes of this subsection.

19 “(11) ALLOCATION OF BASIS ADJUSTMENT.—  
20 The reduction required by section 50(c) for any tax-  
21 able year shall be allocated among the nondefense  
22 section 38 property placed in service by the taxpayer  
23 during such year in proportion to the respective  
24 bases of such property.

1           “(12) RECAPTURE.—In applying section 50(a)  
2           to any property which ceases to be nondefense sec-  
3           tion 38 property, the credit determined under this  
4           section with respect to such property shall be treated  
5           as being equal to 15 percent of the lesser of—

6                   “(A) the excess referred to in paragraph  
7                   (1) for the taxable year in which such property  
8                   was placed in service, or

9                   “(B) the qualified investment in such prop-  
10                  erty which was taken into account under sub-  
11                  section (a).

12           “(13) CONTROLLED GROUPS.—Rules similar to  
13           the rules of paragraph (1) of section 41(f) shall  
14           apply for purposes of this subsection.

15           “(14) INCLUSION OF LEASED PROPERTY.—The  
16           Secretary shall prescribe regulations which require  
17           leased property to be taken into account in deter-  
18           mining the incremental nondefense qualified invest-  
19           ment for any taxable year and which allow the credit  
20           under paragraph (1)(A) attributable to such prop-  
21           erty to be allowed to the lessor or lessee of such  
22           property.

23           “(15) APPLICATION OF SUBSECTION.—This  
24           subsection shall apply to the 5-period beginning on  
25           January 1, 1993, under rules similar to the rules of



1 section 48(m) (as in effect on the day before the  
2 date of the enactment of the Revenue Reconciliation  
3 Act of 1990).”

4 (c) TECHNICAL AMENDMENTS.—

5 (1) Subparagraph (C) of section 49(a)(1) of  
6 such Code is amended by striking “and” at the end  
7 of clause (ii), by striking the period at the end of  
8 clause (iii) and inserting “, and”, and by adding at  
9 the end thereof the following new clause:

10 “(iv) the basis of any new nondefense  
11 section 38 property and the cost of any  
12 used nondefense section 38 property.”

13 (2) Subparagraph (E) of section 50(a)(2) of  
14 such Code is amended by inserting “or 48(c)(5)” be-  
15 fore the period at the end thereof.

16 (3) Paragraph (5) of section 50(a) of such Code  
17 is amended by adding at the end thereof the follow-  
18 ing new subparagraph:

19 “(D) SPECIAL RULES FOR CERTAIN PROP-  
20 ERTY.—In the case of any nondefense section  
21 38 property which is 3-year property (within  
22 the meaning of section 168(e))—

23 “(i) the percentage set forth in clause  
24 (ii) of the table contained in paragraph  
25 (1)(B) shall be 66 percent,

1                   “(ii) the percentage set forth in clause  
2                   (iii) of such table shall be 33 percent, and  
3                   “(iii) clauses (iv) and (v) of such table  
4                   shall not apply.”

5                   (4) Section 280C of such Code is amended by  
6                   adding at the end thereof the following new sub-  
7                   section:

8                   “(d) CREDIT FOR CERTAIN EXPENSES OF DEFENSE  
9                   CONTRACTORS.—No deduction shall be allowed for that  
10                  portion of the qualified nondefense product expenses (as  
11                  defined in section 48(c)(8)) otherwise allowable as a de-  
12                  duction for the taxable year which is equal to the amount  
13                  of the credit determined for such taxable year under sec-  
14                  tion 48(c) with respect to such expenses. Rules similar to  
15                  the rules of paragraphs (2) and (3) of subsection (b) shall  
16                  apply for purposes of this subsection.”

17                  (5)(A) The section heading for section 48 of  
18                  such Code is amended to read as follows:

19                  **“SEC. 48. OTHER CREDITS.”**

20                  (B) The table of sections for subpart E of part  
21                  IV of subchapter A of chapter 1 of such Code is  
22                  amended by striking the item relating to section 48  
23                  and inserting the following:

                  “Sec. 48. Other credits.”

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years ending after  
3 December 31, 1992.

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